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March 6, 2019

BY ECF

Hon. A. Kathleen Tomlinson, U.S.M.J.
United States District Court, E.D.N.Y.
100 Federal Plaza
P.O. Box 9014
Central Islip, New York 11722-9014

Re: *Craig Cunningham v. Shore Funding Solutions Inc.*,
Case No. 17-CV-2080 (ADS)(AKT)

Your Honor:

I represent Plaintiff Craig Cunningham and the putative class (collectively “Plaintiff”) in the above-entitled matter. I am writing concerning the failure of Defendant’s counsel, Mr. Clifford Olshaker, to obey this Court’s March 4, 2019 Order “to provide a copy of his airline reservation to the Court by the end of the day[, March 4, 2019].” Doc. No. 65 at 1. Mr. Olshaker and Defendant’s failure to obey this Court’s Order is yet another reason that Mr. Olshaker and Defendant should be sanctioned.

As this Court is aware, on March 1, 2019, Mr. Olshaker requested an adjournment of this Court’s long-scheduled March 7, 2019 hearing on Plaintiff’s fourth and fifth motions to compel and for sanctions and other relief. Mr. Olshaker claimed that he was “leaving for Europe that afternoon and had to be at JFK airport to make [his] flight.” Doc. No. 63 at 1. Given Mr. Olshaker’s and his client’s previous repeated failures to obey this Court’s scheduling and substantive orders and to satisfy their discovery obligations in this case, Plaintiff objected to that request. Doc. No. 64. Although “[g]iven the track record of defendant’s counsel in this case, the Court [was] somewhat skeptical of a last-minute request to adjourn the hearing,” this Court granted that adjournment over Plaintiff’s objection. However, the Court directed Mr. Olshaker “to provide a copy of his airline reservation to the Court by the end of the day[, March 4, 2019].” Doc. No. 65 at 1.

On March 5, 2019, having determined that Mr. Olshaker had not obeyed this Court’s Order to provide a copy of his airline reservation to the Court by the end of March 4, 2019, I sent Mr. Olshaker an e-mail, left a voice mail message on Mr. Olshaker’s cell phone, and sent a text message to Mr. Olshaker’s cell phone reminding him of his obligation to provide that airline reservation to this Court. I did not receive any reply from Mr. Olshaker, although I did receive an indication on my cell phone that my text message had been read.

As is apparent, this Court's skepticism regarding Mr. Olshaker and Defendant was completely justified. As of today, Mr. Olshaker has failed to submit any evidence of having a March 7, 2019 airline reservation to Europe. This fact leads ineluctably to one of two possible conclusions, each of which is equally disturbing. Either Mr. Olshaker purposefully disobeyed this Court's Order to file evidence of his airline reservation by the end of March 4, 2019, or Mr. Olshaker purposefully misled this Court when he claimed that he had such a reservation. Whichever is true, this is yet another example, of many, of why this Court should sanction Mr. Olshaker and Defendant.

Respectfully submitted,

/s/ Aytan Y. Bellin

cc: Clifford B. Olshaker, Esq. (By ECF)

CERTIFICATE OF SERVICE

I hereby certify that on March 6, 2019, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the email addresses denoted on the Electronic Mail Notice List.

s/Aytan Y. Bellin

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